

REMARKS

Claims 34-39 and 51 are pending in this application, of which claims 34, 37, and 50 are independent in form. Claims 40-49 and 50 have been withdrawn from consideration in response to a Restriction Requirement. Reconsideration and withdrawal of the pending rejections are respectfully requested in view of the foregoing amendments and following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 34-39 and 50 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,343, 738 B1 to Ogilvie (“Ogilvie”) in view of U.S. Patent Application Publication No. 2004/0138966 by Kopelman et al. (“Kopelman”). Applicants respectfully traverse this rejection.

The Examiner asserts that Ogilvie, at col. 13, lines 25-35, discloses “a software program for evaluating the electronic contents to said seller-side apparatus.” *See* April 25, 2005 Office Action at page 3. Applicants respectfully disagree with the Examiner’s characterization of the cited portion of Ogilvie.

Ogilvie, at col. 13, lines 25-35, recites:

In conventional approaches, a seller of digital goods has the opportunity to inspect copy [sic] of the samples that the buyer receives, either because the seller creates the samples itself or because the seller knows in advance what techniques will be used to create the samples. For instance, a seller of images may itself conventionally create thumbnail samples, or the seller may conventionally use software tools which will create thumbnail samples on the seller's behalf using techniques whose details are not necessarily understood by the seller but whose results are readily predicted by the seller.

That is, Ogilvie discloses software tools that create thumbnail samples so that *a seller may visually evaluate samples* that a buyer receives. In contrast, Applicants teach a software program for evaluating electronic contents, wherein the software program itself electronically performs an evaluation of the electronic contents. By way of example, Applicants, at page 18, lines 20-25, disclose that “the following are entirely electronified in order to render commercial product (contents) trade more efficient . . . Contents evaluation.”

Applicants have amended independent claims 34, 37, and 51 to more clearly recite the claimed subject matter. Amended independent claims 34, 37, and 51 now require “a software program for *electronically* evaluating the electronic contents to said seller-side apparatus.”

Moreover, independent claims 34, 37, and 51 are directed to an information processing system, an information processing method, and a storage medium storing a program executable by a computer, respectively, for sending electronic contents *between a buyer-side apparatus and seller-side apparatus via a network*. Ogilvie fails to disclose, teach, or suggest, that the software tools, which create thumbnail samples, are sent *from the buyer-side* to the seller-side apparatus as required by independent claims 34, 37, and 51.

For at least the foregoing reasons, the teachings of the primary reference, Ogilvie, are deficient. The teachings of the secondary reference, Kopelman, fail to cure the deficiencies of the primary reference. That is, neither Ogilvie nor Kopelman, alone or in combination, disclose, teach or suggest an information processing system capable of sending electronic contents between a buyer-side apparatus and seller-side apparatus via a network, comprising a “first sending means for sending a software program for electronically evaluating the electronic contents to said seller-side apparatus.”

Accordingly, withdrawal of the rejection under 35 U.S.C. § 103(a) applied to claims 34-39 and 50 as being unpatentable over Ogilvie in view of Kopelman is respectfully requested.

Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicants, however, reserve the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

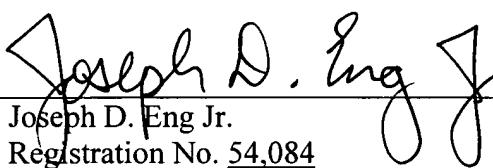
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4730. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: July 14, 2005 By:


Joseph D. Eng Jr.
Registration No. 54,084
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101